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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,249	11/17/2003	Jeffrey Gerard Bourque	10541-1876	4977

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MacMillan, Sobansky & Todd, LLC  
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EXAMINER

REDMAN, JERRY E

ART UNIT PAPER NUMBER

3634

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/715,249

Applicant(s)

BOURQUE ET AL.

Examiner

Jerry Redman

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gillen et al. (5,473,840). Gillen et al. ('840) disclose a closure panel assembly (14) comprising a pair of guide rails (16 and 18; for claims 6 and 14 where the first surface feature is formed of plastic material, Gillen et al. disclose in column 12, lines 38-46, channel liners, which includes the first surface feature, are formed of flocking material or other similar material used to support and seal vehicle windows, i.e. it is well known to that flocking material can be formed of plastic material to provide sealing functions as described) having channels and affixed to glass fixed panels (20 and 22) on opposite sides of an opening, a glass sliding panel (24) having an outer face and a first and second edge bordering the outer face, the first and second edges disposed within the guide rails (16 and 18) when the sliding panel moves between an open and closed position, a compression seal (26 forms elements 28, 30, 36 or 38 and/or Figures 14-18) extending about the periphery of the opening between the fixed panel (22 or 24) and the sliding panel (24), the guide rails (16 and 18) having a pair of engagement portions (58) in the form of a first surface feature projecting laterally in the direction of the opening defined by the fixed panels, a portion of the outer face of the sliding panel (24) having a pair of second surface features (72) projecting towards the engagement portion (58), and a third surface feature (as shown in Figure 10A, the first surface feature (112)


would be the top projection and the third surface feature would be the one below the top projection or visa verse; furthermore, the embodiment of Figure 10A would read on just the first and second feature as well) engaging the second surface feature (72).

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. Firstly, the applicant claims that Gillen ('840) fails to disclose a compression of bulb seal member between the fixed panel and the sliding member. No where in the claims can the Examiner find the limitation that the seal member is a "bulb" seal member. Secondly, Webster's New World Dictionary, third edition, defines compression as "press together, make more compact by or as by pressure". Therefore, as the sliding panel moves to a fully closed position, the seal member of Gillen('840) is compressed between the sliding panel and the fixed member. From the engineering prospective, all plastics and rubbers are resilient materials and as one compresses/forces a rubber material in a direction in which the rubber has a resilient and equal opposite force the material within the rubber will be compresses and similarly as the force is removed from the rubber the material returns to it's original position, i.e., hence the resiliency of rubber.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.

  
Jerry Redman  
Primary Examiner